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May 2, 2011

Leslie A. Kirby-Miles
Associate Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd, C-14J
Chicago, IL 60604-3590

Dear Ms. Kirby-Miles:

This letter is to serve as the response to the letter from Linda Nachowicz, Chief, Emergency Response Branch 2 dated April 18, 2011 and received April 19, 2011.

Your letter seeks a commitment from Consumers Energy Company (Consumers) to discuss entry into an administrative consent agreement to perform or finance response activities consistent with remedial action requirements likely to be included in the Action Memorandum.

As a basis for this, you cite 40 C.F.R. § 300.415(a)(2). This section directs the EPA to determine if a party can or will perform remedial action work where the responsible parties are *known*. As such, the EPA must have had a sound basis to determine that Consumers is a responsible party.

Consistent with our response to the General Notice Letter Consumers received on November 29, 2010, Consumers repeats its request that EPA identify the information it has indicating that Consumers Energy disposed of PCBs or arranged for disposal and treatment of PCB-containing material at the Portage Creek portion or any other portion of the site.

During an initial phone conversation with Consumers representatives on April 25, 2011 you indicated the basis that you could recall for identifying Consumers as a PRP was the possible presence of PCB in electrical equipment used in a utility's operations, and information obtained from a former Consumers employee during a civil investigation interview that Consumers had used transformer oil on the creek bank for weed control.

Consumers is unable to commit to performing or financing response activities based on the general assertions of liability identified above without more information.

Consumers does, however, understand the serious nature of your letter and, as such, intends to do the following:

1. Submit a Freedom of Information Act Request to EPA Region 5 for the liability file that EPA has presumably prepared.
2. Make all efforts to contact the other recipients of your letter to determine what their course of action will be.
3. Attempt to evaluate initially whether we have, as a general practice, sprayed transformer oil for weed control, including in areas we did not own or control.
4. Commit to re-evaluating Consumers' participation upon receipt of information connecting our operations with site conditions. Understand that Consumers is not a member of the Kalamazoo Study Group and has no access to that Group's records. Accordingly, Consumers cannot reasonably evaluate EPA's demands and Consumers suggests that basic fairness requires a reasoned basis for asserting liability, especially where the Kalamazoo Study Group's responsibility has been amply demonstrated.

For further contact on this matter, I can be reached by telephone at (517) 788-2482.

Sincerely yours,



Gary L. Kelterborn
Attorney
Consumers Energy Company